

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JUDITH B. MEMBLATT,

Plaintiff,

-against-

05-CV-1021  
(RJD) (LB)

JAIME A. RIOS, Associate Justice,  
Appellate Term, Supreme Court, State  
of New York, 2<sup>nd</sup> and 11<sup>th</sup> Judicial  
Districts, STEVEN W. FISHER, Associate  
Justice, Appellate Division, Supreme  
Court, State of New York, 2<sup>nd</sup> Department,  
JONATHAN LIPPMAN, Chief Administrative  
Judge of the Courts of the State of  
New York, LAUREN DeSOLE, Director of  
the Division of Human Resources, New  
York State Unified Court System, Office  
of Court Administration, ANTHONY  
D'ANGELIS, Chief Clerk, Supreme Court  
State of New York, Queens County,  
ROBERT W. GARDNER, Major of Officers,  
Supreme Court, State of New York,  
SANDRA NEWSOME, Secretary to Judge,  
Supreme Court, State of New York,  
HEIDI HIGGINS, Secretary to Judge,  
Supreme Court, State of New York,  
KAREN KOSLOWITZ, Deputy Borough  
President, County of Queens, City of  
New York, THOMAS J. MANTON, GERARD  
J. SWEENEY and MICHAEL H. REICH,

**NOTICE OF MOTION**

Defendants.

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**PLEASE TAKE NOTICE** that upon the accompanying Memorandum  
of Law, dated November 21, 2005, and all prior pleadings and  
proceedings herein, the Honorable Jaime A. Rios, Justice of the New  
York State Supreme Court, Queens County ("Justice Rios"), the  
Honorable Jonathan Lippman, the Chief Administrative Judge of the  
Courts of the State of New York ("Justice Lippman"); the Honorable

Steven W. Fisher, Justice of the New York State Supreme Court, Appellate Division, Second Department ("Justice Fisher"); Lauren DeSole, Director of Human Resources for the State of New York, Office of Court Administration ("OCA"); Anthony D'Angelis, Chief Clerk of the New York State Supreme Court, Queens County ("Chief Clerk D'Angelis"), Major Robert W. Gardner, a Senior Court Officer in the Supreme Court, Queens County ("Major Gardner"), Sandra Newsome, Justice Rios' clerical secretary, and Heidi Higgins, clerical secretary to the Honorable Mark H. Spires, (collectively "State Defendants") by their attorney, Eliot Spitzer, Attorney General for the State of New York, will move this Court by submission on 12<sup>th</sup> day of January 2006, before the Honorable Raymond J. Dearie, United States District Judge, at the United States Courthouse, located at located at 225 Cadman Plaza East, Brooklyn, New York 11201, for an order granting State defendants' motion to dismiss the complaint pursuant to Fed. R. Civ. P. 12 (b) (1) and (6) and for such other and further relief as this Court may deem just and proper.

**PLEASE TAKE FURTHER NOTICE** that opposing affidavits and answering memorandum, if any, must be served by December 27, 2005.

Dated: New York, New York  
November 21, 2005

Eliot Spitzer  
Attorney General of the  
State of New York  
Attorney for State defendants  
By:

\_\_\_\_\_/S\_\_\_\_\_  
Constantine A. Speres (CAS-9100)  
Assistant Attorney General  
120 Broadway  
New York, New York 10271  
(212) 416-8567

To: Judith B. Memblatt  
Plaintiff Pro Se  
98-51 65<sup>th</sup> Avenue  
Apt. 2-A  
Rego Park, New York 11374

Madeleine S. Egelfeld, Esq.  
Attorney for Defendant Koslowitz  
125-10 Queens Boulevard  
Suite 311  
Kew Gardens, New York 11415

John Quinn, Esq.  
Renfro & Quinn  
Attorneys for Defendants Manton, Sweeney and Reich  
118-35 Queens Boulevard  
14<sup>th</sup> Floor  
Forest Hills, N.Y. 11375

**DECLARATION OF SERVICE**

\_\_\_\_\_CONSTANTINE A. SPERES pursuant to 28 U.S.C. § 1746,  
declares under penalty of perjury as follows:

That on November 21, 2005, I caused true and correct  
copies of the annexed Notice of Motion and Memorandum of Law to be  
personally served on:

Judith B. Memblatt  
Plaintiff pro se  
98-51 65<sup>th</sup> Avenue  
Apt. 2-A  
Rego Park, New York 11374

at the address within the State designated by her for that purpose;  
and upon

Madeleine S. Egelfeld, Esq.  
Attorney for Defendant Koslowitz  
125-10 Queens Boulevard  
Suite 311  
Kew Gardens, New York 11415

John Quinn, Esq.  
Renfro & Quinn  
Attorneys for Defendants Manton,  
Sweeney and Reich  
\_\_\_\_\_118-35 Queens Boulevard  
14<sup>th</sup> Floor  
Forest Hills, N.Y. 11375

by electronic mail and via Federal Express pursuant to the  
agreement of defense counsel at the address within the State  
designated by them for that purpose.

\_\_\_\_\_/s\_\_\_\_\_  
CONSTANTINE A. SPERES

Executed On January 11, 2006

**AFFIDAVIT OF SERVICE  
OF  
Notice of Motion**

Bureau Litigation

**STATE OF NEW YORK:  
COUNTY OF NEW YORK:**

I, Inv. Kevin R. McCann Sh# 41, being duly sworn, deposes and says:That on November 21 2005, at 98-51 65<sup>th</sup> Avenue (Apt. 2A)City of Rego Park, State of New York, deponent served the aboveon Judith B. Memblatt at 03:40 pm by:1. **INDIVIDUAL**

- ☐ (a) Delivering a true copy thereof to \_\_\_\_\_ personally. Deponent knew the person so served to be the person described in said document(s).
- X (b) Delivering a true copy to Shirley Memblatt (mother) a person of suitable age and discretion at person's actual place of business, dwelling place, or usual place of abode.

Deponent also enclosed a copy of same in a postpaid, sealed wrapper properly addressed to person's last known business, dwelling place or place of abode at 98-51 65<sup>th</sup> Avenue, (2A) Rego Park, NY and deposited said wrapper in an official depository under the exclusive care and custody of the U.S. Postal Service.

- ☐ (c) Affixing a true copy to the door of person's actual place of business, dwelling place, or usual place of abode. Deponent was unable, with due diligence, to find the person named therein or a person of suitable age and discretion having called there:
- On \_\_\_\_\_ 20\_\_\_\_, at \_\_\_\_\_
- On \_\_\_\_\_ 20\_\_\_\_, at \_\_\_\_\_
- On \_\_\_\_\_ 20\_\_\_\_, at \_\_\_\_\_

Deponent also enclosed a copy of same in a postpaid, sealed wrapper properly addressed to person's last known business, dwelling place or place of abode at \_\_\_\_\_ and deposited said wrapper in an official depository under the exclusive care and custody of the U.S. Postal Service.

2. **CORPORATION:** Serving the above on \_\_\_\_\_ Corporation, personally, whom deponent knew to be the said corporation by delivering a true copy thereof with \_\_\_\_\_ an officer of said corporation or other agent authorized to receive service for said corporation.

**DESCRIPTION:** Deponent describes the individual served as follows:

Sex: Female, Hair: Blonde,  
Skin: White, Approx. Age: 79,  
Approx. Ht.: 5'5", Approx. Wt.: 110-115 lbs

Signature Inv. Kevin R. McCann Sh# 41Sworn to before me this 25<sup>th</sup> day of Nov, 2005Notary Public Elaine S. Betza

Elaine S Betza  
Notary Public State of New York  
No. 01BE5085861  
Qualified in Queens Cty  
Commission Expires Sept 29 2009